

UNITED STATES DISTRICT COURT
District of Massachusetts
Case No. 1:04-cv-10917-WGY

JAMES P. KARTELL,
Petitioner,

v.

BRIAN BURGWINKLE, as he is Deputy Superintendent of
Pondville Correctional Center, Norfolk, Massachusetts

PETITIONER'S MEMORANDUM CONCERNING
ORDER FOR CLOSURE

The petitioner James P. Kartell submits this memorandum in response to the order of the Court dated December 16, 2004. The petitioner has determined not to withdraw the grounds for relief deemed by this Court not to have been fully exhausted in previous litigation and accordingly has proceeded to file a Motion For Post-Conviction Relief on those grounds in the Massachusetts Superior Court in Essex County. Based upon this Court's order, it is the petitioner's understanding that this matter will remain administratively closed until such time as, if relief has not been granted, the post-conviction motion has been fully litigated in the state trial and appellate courts.

It is the petitioner's belief that there is no means by which this Court could pursue a bifurcated proceeding in which the exhausted issue could be considered separately while the state post-conviction motion is being addressed in state court. Accordingly, this matter will remain administratively closed without entry of judgment while state court action is pending.

Respectfully submitted,
For JAMES P. KARTELL

/s/ Michael J. Traft
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February 14, 2005

CERTIFICATE OF SERVICE

I, Michael J. Traft, hereby certify that on February 14, 2005, I served a copy of this document by first class mail to: Daniel I Smulow, Assistant Attorney General, Commonwealth of Massachusetts, One Ashburton Place, Boston, MA 02108.

/s/ Michael J. Traft
MICHAEL J. TRRAFT